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In re Application of :  
Rushbrooke et al. :  
Application No. 10/501,616 :  
PCT No.: PCT/GB02/00353 :  
Int. Filing Date: 28 January 2002 : COMMUNICATION  
Earlier Priority Date: None :  
Att. Docket No.: C1165.03/C :  
For: X-Ray Inspection System And Method :

This is in response to the papers filed on 14 July 2004, which are being treated under 37 C.F.R. 1.42.

### **BACKGROUND**

This international application was filed on 28 January 2002, claimed no earlier priority date, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 07 August 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 28 July 2004. Applicants filed, *inter alia*, the basic national fee on 14 July 2004.

### **DISCUSSION**

Review of the declaration of the inventors filed on 24 April 2004 reveals that it indicates that joint inventor John Gordon Rushbrooke is deceased. 37 CFR 1.42 provides in part that

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or

declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Further examination of the declaration reveals that it includes the citizenship of the deceased inventor. However, it has not been signed on behalf of Mr. Rushbrooke by an heir(s) or legal representative(s), nor does it state the relationship of any such person to Mr. Rushbrooke, nor does it provide the mailing address, citizenship or residence of any such person as required by 37 CFR 1.497(b)(2). It is also not clear whether any legal representative has been appointed or is required by the applicable law to be appointed. As such, it would not be appropriate to accept the declaration pursuant to 37 CFR 1.42 at this time.

**CONCLUSION**

The declaration is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

Applicants must respond within **TWO (2) MONTHS** of the mailing date of this decision, extendable pursuant to 37 CFR 1.136(a). Any such reply should be entitled "Renewed Submission Under 37 CFR 1.42."

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



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